

Washington County Land Use Authority Meeting
April 27, 2010
(Recording available)

The Washington County Land Use Authority Meeting was held on Tuesday, April 27, 2010, at the Washington County Administration Building, 197 E. Tabernacle, St. George, Utah. The meeting was convened at 1:30 p.m. by Chairman Stucki. Commissioners present: Debora Christopher, Doug Wilson, Kim Ford, and Julie Cropper. Also present: Deon Goheen, Planning & Zoning Administrator; Rachelle Ehlert, Deputy Attorney; Kurt Gardner, Building Official; Todd Edwards, Public Works Engineer; John Willie, Senior Planner; and Darby Klungervik, Planning Secretary.

Excused: Joann Balen, Dave Everett

Absent: Rick Jones

Audience attendance: Gordon Poppitt, Henry Landau, Kristen Legg, Cindy Purcell

Chairman Stucki led the audience in the Pledge of Allegiance and explained meeting protocol.

Item # 1. SPECIAL MEETING: **STAFF COMMENTS.** Review staff comments for each item listed below. Staff initiated.

Item #2. PUBLIC HEARING Open hearing for a zone change from Neighborhood Commercial to Highway Commercial zone on lower Kolob Mountain. Hank Landau, applicant.

The chairman opened the public hearing at 1:31p.m.

The Planner reminded the commission the public hearing is referenced by State Code. Whereas the requirements to amend a land use ordinance, for a minimum ten days published notice and 24 hour posting of agenda before other public meetings, have been met. She said all the surrounding property is within the OSC, OST or RA-5 zone. A brief history of this facility shows that it was initially known as the 102 Bar and in the 80's used as a time share. In 1972 the zoning ordinance was adopted, so the designation of zoning was for C-1, which allowed for all uses within the Neighborhood Commercial zone. That existing use received grand father status, but once that use was discontinued that status went away. The applicant has remodeled the facility as a single family residence and would like to establish a Bed and Breakfast, which is a permitted use in the C-2 (Highway Commercial) zone. The principal objective in establishing the C-2 highway commercial zone is to appropriately locate facilities, that serve the traveling public, in areas within the county. If the property is rezoned, The Planning Commission will still need to do a site plan review. The Planner also informed the commission that they did have one complaint from Karen, with National Park Conservation Association; she said they were opposed to the zone change because there are water table issues and it will set a precedent in the area. Karen would like us to have further conversation on this zone change when she could be present. The Planner said hopefully Mr. Landau will have some answers on the water table because that would not normally be discussed until the site plan review. The General Plan depicts this area as

being Agricultural in nature. The applicant is present as well as representatives for the National Park.

Hank Landau, owner/applicant, said he did not know establishing a bed and breakfast would be a problem because he didn't understand the difference in commercial zones. He said it does not make sense that a bar would be zoned a C-1 instead of a C-3. He explained his intent is to remodel to create a bed and breakfast. Mr. Landau showed the parcel location on a map and explained he owns two (2) five (5) acre parcels. He wants to rezone one (1) to a C-2 and keep the other parcel OST. He said the building is approximately 2000 sq ft, having five (5) bedrooms and two (2) kitchens, with the lower 1200 sq ft being their home.

Kristen Legg, Chief of Resource Management for Zion's National Park, said she originally thought this was coming in as a zone change from an OST-20 to a C-2, not a C-1 to a C-2. She explained under their land protection plan they do have guidelines to work with the landowners to figure out the best way to manage the inholdings and maintain the important resources in the park. She said they are concerned that the zone change will set a precedent in the area and if this property changed hands it would open the door for additional development. There are also concerns about the utilities and water availability. They would like more time to review this proposal.

Cindy Purcell, Chief Ranger at Zion's National Park, she said she is familiar with this property and their main concern is to preserve this property. In response to the commission, she explained the land management plan and the parks land acquisition procedures.

Kristen Legg elaborated saying they have a couple of different ways to acquire inholdings; 1) out right land acquisition is an option when the money is available and the land owner is willing to sell; and 2) conservation easements or conservation agreements with landowners to provide further protection of the lands they own. She said there are significant resources in the area that need to be protected.

Hank Landau objected to the term inholdings saying the park grew to 145,000 acres and in doing so, surrounded private property. He stated he is off the grid for utilities; he has solar power, a backup generator and his well is down 840 feet and believes he has about ½ acre foot of water. He said his intention is for year around use and if he needs to purchase more water he will.

There was discussion about the parcel having two different zoning designations. It was determined that only one acre of the parcel is a C-1 with the remainder of the parcel being zoned OST. John Willie clarified saying the bar was already in operation when the zoning was designated and therefore, they zoned just the bar C-1. After some research the commission determined the assessors have also assessed only one (1) acre as commercial and the rest of the property as agricultural. The applicant was asked if he would like to rezone the entire parcel or just the area of the proposed bed and breakfast. He said he would like to rezone the entire parcel, but after further discussion agreed to just rezone the section that is currently C-1. The commission was concerned about rezoning the entire five (5) acres because of the variety of uses permitted under the C-2 zone.

Todd Edwards, County Engineer, suggested using a natural description of the property, such as saying from the old road to the new road, rather than having the applicant have a survey conducted, which would be rather costly.

The Chairman closed the public hearing at 2:33p.m.

Item #3. ZONE CHANGE. Request for a zone change from C-1 (Neighborhood Commercial) to C-2 (Highway Commercial) zone, containing 5.425 acres, a portion of Section 21, T40S, R11W, SLB&M, for a Bed and Breakfast. Hank Landau, owner/applicant.

The Planner said now that the public hearing is closed, the commission will be acting on the zone change, which has been properly advertised.

Facts/Findings:

- **Changing zone from a C-1 to a C-2 is in compliance with the request**
- **Based upon John Willie's testimony and the county assessor's records 1 acre was zoned C-1 and the other 4.42 acres were zoned OST-20 and considered agricultural, therefore, the change is consistent with the General Plan**
- **The zone change does not negatively impact the surrounding property**
- **The C-2 zone is more restrictive than the historical use of the property**

Motion was made by Commissioner Christopher to recommend approval of the zone change from a C-1 to a C-2 for the one acre currently a C-1, based on the facts and findings, subject to the applicant submitting a boundary description. Commissioner Cropper seconded the motion with all four (4) commissioners voting aye.

Item #4. WORK MEETING: DISCUSSION ITEM/WIRELESS COMMUNICATION FACILITIES Review presentation on wireless communication facilities for educational purposes and possible future amendments to Chapter 21 of the Washington County Zoning Ordinance. County initiated.

The Planner informed the commission that staff is ready to present a portion of the LORMAN Education Services CD on current issues in cell tower leases. The wireless industry has built more than 220,000 cell sites in the United States in the past 20 years, but many more cell sites are needed as the wireless industry expands coverage and extends the capabilities of cell phones and wireless devices into data, email, computer and video applications. New cell sites and significant modifications to existing cell sites will also be needed to facilitate the provision of the FCC's new Advanced Wireless Services. This will be the first of a series of reviews in updating and amending the Washington County Wireless Communications Chapter.

Rachelle Ehlert, Deputy Attorney, said the sample ordinances she has seen are pages long and we probably do not want to get that complicated. She said she will summarize the legal aspects she thinks the commission should know and do a part two on this in a month or so. Then the commission can decide if they want to look at some sample ordinances or incorporate it into the conditional use section.

Gordon Poppitt, resident of Central, is involved in a committee formed for the purpose of fuel reduction called the Dixie Regional Council for Fuel Reduction and Emergency Preparedness. The reason he was in attendance today is because several residents have contacted him concerned about the telephone poles two individuals erected for amateur radio. According to the FCC external antennas are structures and therefore, subject to building permits and conditional use permits. Mr. Poppitt brought pictures which were shown to the commission. He estimated one pole was in excess of fifty feet tall. He was informed that ten feet of it was buried and was concerned about the stability of the structure. He said it is important to recognize that antennas of all types need to be addressed, not just cell towers. He also said that an application for the use of a ham radio station is an advantage for the community; it will address emergency disaster. He had some concerns about the two of them so close together. He concluded saying quite a few residents are concerned about this, whether it is correctable or not.

The Chairman liked the idea of addressing all types of antennas and the Deputy Attorney agreed and said they are doing some research on that; specifically on the ham radios which are more of a national security issue, so the FCC has been a lot less rigid on them than on cell towers. The county needs to have reasonable accommodations for ham radio operators. She stated the poles Mr. Poppitt is referring to are already up, so we need to decide first how we want to deal with those and then in general decide if we need to update our code not only on cell phone towers but on ham radios and amateur radios. The federal government wants these radios out there. She explained when Hurricane Katrina hit this was the only way of communicating. It is necessary for the county to allow cell towers and radio antennas, but they can be reviewed under specific guidelines.

Item #5. DISCUSSION ITEM/ORDINANCE AMENDMENT Review possible changes to Chapter 18 Conditional Use issues on advertising, posting property to notify adjacent property owners. County initiated.

Due to the time, the commission decided to postpone this item until the next work meeting.

Item # 6. DISCUSSION ITEM/ORDINANCE AMENDMENT Review possible changes to Chapter 8D-3.B. deletion of requirements for petition for public notice on Bed & Breakfast's. County initiated.

Due to the time, the commission decided to postpone this item until the next work meeting.

Item #7. DISCUSSION ITEM/ORDINANCE AMENDMENT Review possible changes to Chapter 9, Section 10-9-6: PDR Planned Residential development district: C. Conditional Uses: 2. Cemeteries. County initiated.

Due to the time, the commission decided to postpone this item until the next work meeting.

Item # 8. DISCUSSION ITEM/GENERAL PLAN AMENDMENT Review Introduction to the General Plan. County initiated.

The Planner said John Willie has been working on the General Plan for the past year and he is ready to present several of the sections in draft form. He will present a short introduction on

Bureau of Land Management, National Forrest, National Park, Institutional and Trust Lands Administration, and leave copies for the commission to start reading.

John Willie, Senior Planner, discussed the General Plan and what each section will include. He said the section of maps is not yet included. The maps will include: arterial and collector roads, special use roads, ORV maps, known motorized trails, the RS 247 roads, the counties class B road map, utility corridors, and wild and scenic rivers. Included will be a summary of the sixteen wilderness areas, the Land Bill approved by congress, and a summary of Vision Dixie is included in the resource management plan. He reviewed the seven (7) sections of the rough draft briefly and distributed copies to the commission to review.

Item # 9. COUNTY COMMISSION ACTION REVIEW. Review of action taken by the County Commission on Planning Items. County initiated.

These items will be reviewed at the next meeting.

Item # 10. COMMISSION & STAFF REPORTS: General reporting on various topics. County initiated.

There being no further business at 4:03 p.m., Chairman Stucki adjourned the meeting.

Darby Klungervik, Planning Secretary